

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**JANEAN J. GOODWIN,** ) **8:05CV103**

                                ) **Plaintiff,** )

                                ) **vs.**                         ) **MEMORANDUM AND ORDER**

**JO ANNE B. BARNHART,** )

**Commissioner of Social Security,** )

                                ) **Defendant.**              )

This matter is before the Court on the Motion to Reverse and Remand filed by the Commissioner (Filing No. 9). The motion is unopposed. (*Id.*)

The Commissioner requests an order and final judgment reversing the decision of the Administrative Law Judge ("ALJ") and remanding this case to the Commissioner pursuant to sentence four of Section 205(g), 42 U.S.C. § 405(g). Counsel for the Commissioner has represented that, upon agency counsel's request, the Appeals Council reconsidered the case and determined that a remand was appropriate. Remand under sentence four of section 405(g) is requested because the ALJ's hypothetical question did not match his residual functional capacity finding. Therefore, the ALJ's reliance on the vocational expert's testimony did not provide a substantial basis for the decision. (*Id.*)

On remand, the ALJ shall: 1) seek supplemental vocational expert ("VE") testimony and include all of the Plaintiff's limitations in a hypothetical question to the vocational expert; and 2) question the vocational expert about any conflicts between the occupational evidence provided by the VE and information in the *Dictionary of Occupational Titles* and

*Selected Characteristics of Occupations* pursuant to Social Security Ruling 00-4p and, if conflict exists, resolve the inconsistencies in the ALJ's decision.

IT IS ORDERED:

1. The Defendant's Motion to Reverse and Remand (Filing No. 9) is granted;
2. The decision of the ALJ is reversed;
3. This action is remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Memorandum and Order; and
4. Judgment will be entered in a separate document.

DATED this 16<sup>th</sup> day of June, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge